IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3859 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RASIKLAL MOHANLAL UNAVA

Versus

STATE OF GUJARAT

Appearance:

MR PJ KANABAR for Petitioner

NOTICE SERVED BY DS for Respondent No. 1, 4

MR SP HASURKAR for Respondent No. 3

CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 04/05/2000

ORAL JUDGEMENT

#. Rule. Shri Digant.P.Joshi, learned A.G.P. appears for respondents instructed by Shri S.P.Hasurkar the learned Additional G.P. and waives service of rule.

#. This is a petition challenging the inaction on the part of the Government in not deciding the option exercised by the petitioner. The option was required to be given on account of bifurcation of Bhavnagar district. The petitioner originally belong to Bhavnagar district. On bifurcation of the district, the area in which he was posted at the relevant time has gone to Amreli District. The Government had asked for and the petitioner had exercised the option. It is important to note that such option was given in the year 1997. It was also understood that until the option given by the petitioner is decided, the petitioner will be allowed to continue to serve at the place at which he was serving at the relevant time. The petitioner was working at Jesar.

#. The petitioner has already exercised his option to remain in Bhavnagar district, which is his parent district and it would have been proper for the authorities to decide his option at the earliest. It is also averred in the petition that though his option was pending, the respondent Government made new recruitments. However, the learned advocate Shri P.J.Kanabar for the petitioner has prayed for the directions directing the respondents to fix rational criteria and/or basis for implementing and operating the option exercised by the petitioner for appointment in Bhavnagar district in the respective cadre as per order of Annexure "A" to the petition. It is not required at this stage to go into other contentions raised in the petition. As the learned advocate for the petitioner has stated that he will be satisfied if appropriate directions are issued to the aurhorities to decide the option of the petitioner pending before the Government since 1997, the grievance of the petitioner will stand redressed to a major extent. In that view of the matter, it will be in fitness of things and in the interest of justice to issue the following directions.

(i) The respondent authorities shall decide the option given by the petitioner preferably within six months and in any case not later than one year.

(ii) In the meanwhile, the petitioner whose option is pending may be transferred from his present place of working, namely, Jesar to the Police Stations within Amreli district, bordering Bhavnagar district, namely, Babra, Lathi, Damnagar, Lalia, Rajula and Jafrabad, only on disciplinary grounds

and in administrative exigencies by respondent no.2, i.e. Deputy Inspector General of Police, Junagadh Range and not by respondents nos.3 and 4.

#. The petition is allowed in terms of the aforesaid directions. Rule is made absolute to the above extent with no order as to costs. It will be open to either party to revive this petition in case of difficulty. D.S. is permitted.

kks